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GARDNER *v.* MOORE'S ADM'R.

Nov. 15, 1917.

[94 S. E. 162.]

1. **Gifts (§ 18 (1)*)—Delivery.**—A gift, to be irrevocable, must be completed by delivery.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 718.]

2. **Gifts (§ 19 (2)*)—Delivery—Statute.**—Code 1904, § 2414, providing that when a donor and donee reside together, the donee's possession of the gift at the place of residence is not a sufficient delivery, etc., is inapplicable to an attempted gift of a portion of a judgment.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 721.]

3. **Assignments (§ 49*)—Gifts (§ 31 (1)*)—Assignment of Judgment—"Bill of Exchange."**—An instrument, directing part payment of a judgment to a designated party, held not an assignment, but a bill of exchange, under Negotiable Instruments Law (Code 1904, § 2841a, cls. 126, 127), defining bills of exchange and providing that they do not operate as assignments, and delivery of the instrument did not constitute a completed gift of the judgment fund.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Bill of Exchange. For other cases, see 1 Va.-W. Va. Enc. Dig. 762; 6 Va.-W. Va. Enc. Dig. 715.]

Error to Circuit Court, Rockingham County.

Proceedings by M. J. Gardner against Rhoda E. Moore's Administrator. Judgment for defendant and plaintiff brings error. Affirmed.

John Paul, Ward Swank, and *H. W. Bertram*, all of Harrisonburg, for plaintiff in error.

D. O. Dechert, D. W. Earman and *Edward C. Martz*, all of Harrisonburg, for defendant in error.

HOSTER'S COMMITTEE *v.* ZOLLMAN et al.

Nov. 15, 1917.

[94 S. E. 164.]

1. **Specific Performance (§ 8*)—Discretion.**—Specific performance of contracts to convey real estate is not a matter of right, but of sound judicial discretion, governed by well-established general rules and principles.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 483.]

2. **Specific Performance (§ 28 (1), 49 (2)*)—Contract—Consideration.**—To warrant specific performance, the contract must be based

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.